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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/626,606

07/25/2003

Jonathan Arnold Manley Knight

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9352

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06/29/2004

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EXAMINER

FULTON, CHRISTOPHER W

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	Applicant(s)	
10/626,606	KNIGHT, JONATHAN ARNOLD MANLEY	
Examiner	Art Unit	
Christopher W. Fulton	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/25/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. Claims 12-22 are objected to because of the following informalities: Claim 12 is objected at line 4 for a repetition of "via". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, and 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ljungberg et al.

The device as claimed is disclosed by Ljungberg et al with a case 1, a spooled measuring blade 5, an opening 7 defined in the case where the blade is withdrawn from the case, a switch 22 operable by the thumb and heel of the operator to the locked or unlocked position without repositioning the hand of the user and the switch length is more than 1.5 times the radius of the fully spooled blade, braking means 17 bistably operable between braking and non-braking positions via the switch, and the switch being pivotable about an axis in the middle third (approximately the middle) of the length of the switch.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ljungberg et al in view of Rutty.

The device as claimed is disclosed by Ljungberg et al as stated in the rejection recited above for claims 1, 2, and 4-9, but lacks the pivot point being between the one third point and the one half way point along the switch length. Rutty teaches placing the pivot point of the switch between the one third point and the one half way point along the switch length to modify the proportion of the force applied to one end of the switch relative to the force applied to the second end of the switch. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to move the pivot point of Ljungberg et al from the middle of the switch as taught by Rutty to change the relative force to lock or unlock the device based on the old and well known fulcrum principle.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ljungberg et al in view of Chapin.

The device as claimed is disclosed by Ljungberg et al as stated in the rejection recited above for claims 1, 2, and 4-9, but lacks the switch being located on the top surface of the case. Chapin teaches placing the switch 54 on the top surface of the case housing for better access to the switch to lock the blade during use. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to move the switch of Ljungberg et al to the

top surface of the case as taught by Chapin to provide better access to the switch during use of the tape.

7. Claims 11-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ljungberg et al in view of Ingram, II et al.

The device as claimed is disclosed by Ljungberg et al as stated in the rejection recited above for claims 1, 2, and 4-9, but lacks the breaking means including as pivoting cam moved by a push pull member including a biasing means to hold the cam in a loaded position to increase the force of the breaking means. Ingram, II et al teaches using a biased pivoting cam moved by a push pull member in the breaking device to increase the breaking force of the breaking means. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a biased pivoting cam moved by a push pull member in the breaking device in Ljungberg et al as taught by Ingram, II et al to increase the breaking force of the breaking means.

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ljungberg et al in view of Ingram, II et al as applied to claims 11-21 above, and further in view of Chapin.

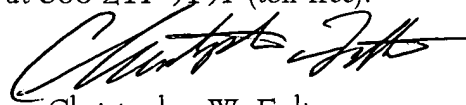
The device as claimed is disclosed as stated in the rejection recited above for claims 11-21, but lacks the spring means an the push-pull member being formed of one piece from the same material. Chapin teaches making the several members of the braking means 32 or 100 out of one piece of the same material to keep the members connected at the desired positions. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the spring member and the push-pull member of the combination of

Ljungberg et al and Ingram, II et al out of one piece of the same material as taught by Chapin to keep the spring member and the push-pull member connected at the desired location.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher W. Fulton whose telephone number is (571) 272-2242. The examiner can normally be reached on M-W & F 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher W. Fulton  
Primary Examiner  
Art Unit 2859

CWF